



July 11, 2002

Dr. Jerry Hall  
Deputy Director of Administrative Services  
Education Service Center, Region VI  
3332 Montgomery Road  
Huntsville, Texas 77340-6499

OR2002-3765

Dear Dr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 165451.

The Region VI Education Service Center (the "center") received a request for "[n]ames and resumes of the four candidates interviewed by the Willis Independent School District Board of Trustees for the position of [district] superintendent." You claim that the requested information is excepted from disclosure under section 552.126 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.126 excepts from disclosure the "name of an applicant for the position of superintendent of a public school district . . . except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days" before a vote or final action is taken. You indicate that the board has already given public notice of the identity of a finalist for school district superintendent. None of the information pertaining to an individual who has been named a finalist may be withheld under section 552.126. However, the names of the remaining applicants for the position of superintendent are excepted from disclosure under section 552.126. Furthermore, this protection from disclosure extends not only to the names of the individuals, but also to any information tending to identify the individual. *See, e.g.*, Attorney General Opinion JM-36 (1983); Open Records Decision Nos. 477 (1987), 165 (1977) (relating to the identities of students); 339 (1982) (victims of sexual abuse or rape); 515 (1988) (informers covered by informer's privilege). This office has previously held that the type of information that

identifies individuals is such cases includes, but is not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. Open Records Decision No. 540 (1990). Thus, in this case, you may withhold the requested information pertaining to the applicants for the position of superintendent, so long as this information does not pertain to the finalist for the superintendent's position. See Open Records Decision No. 540 (1990) (interpreting section 552.123 -- which, in similar language to section 552.126, protects identities of applicants for chief executive officer of institution of higher education -- as applying to identities, rather than just names of applicants). Again, none of the information pertaining to the finalist may be withheld under section 552.126.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

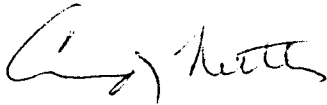
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jh

Ref: ID# 165451

c: Ms. Nancy Flake  
Education Editor  
The Courier  
100 Avenue A  
P.O. Box 609  
Conroe, Texas 77305-0609  
(w/o enclosures)